



W.P.No.18886 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.18886 of 2025

&W.M.P.Nos.21157 and 21159 of 2025

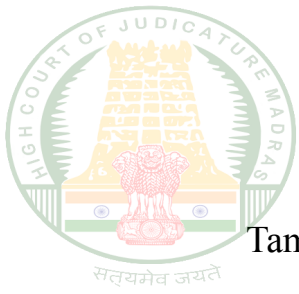
1. K.Shanmugavel Mudaliar
2. K.Vijaykumar

... Petitioners

Vs.

1. The District Collector
Chengalpet District
Chengalpet
2. The Revenue Divisional Officer
Tambaram
Chennai -45
3. The Tahsildar
Pallavaram Taluk
Chromepet
Chennai - 44
4. The Special Tahsildhar
Natham Land Survey
Krishna Nagar
Mudichur Road

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5. The Revenue Inspector

Pammal Circle

Pallavaram Taluk

Pammal, Chennai - 75

6. The Assistant Engineer

Tamil Nadu Electricity Board

Pozhichalur Division

Pammal, Chennai - 75

7. The Inspector of Police

T4, Shankar Nagar Police

Shankar Nagar

Pammal, Chennai - 75

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue writ of declaration declaring that the action of the respondents in reclassifying Grama Natham property as Kuttai Poramboke and Government lands with a view to invoking the provisions of the Tamil Nadu Land Encroachment Act 1905 is null and void, in respect of the Grama Natham Lands comprised in Survey No.210/2, measuring 2 acres and 39 cents in Pozhichalur Village, Pallavaram Taluk, Chengalpet District, and the newly assigned subdivided survey Nos.366 /15, 370 /7, 371 /1 , 371/5, 371 /6, and 372 /1 and further declare that the continued interference by the



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respondents with the petitioners' possession and enjoyment of the said property is illegal and violative of the judgments of this Hon'ble court in W.P.No.8688 of 2018 and W.P.No.26234 of 2018 and 2024 -1-MLJ 21 (Division Bench) and that the action of the respondents in illegally demolishing the petitioners' houses, structures, and compound wall on 01.04.2025 pursuant to the notice dated 17.03.2025 issued under Section 7 of the Tamil Nadu Land Encroachment Act 1905, and served on the 1st petitioner on 27.03.2025 is unlawful and illegal and consequently, direct the respondents to restore possession, reinstate the original classification of the lands, and reconstruct the structures illegally demolished by them on 01.04.2025 and further direct the 6th respondent to restore electricity connections bearing service Nos. 09311002563, 09311002964, and 093110021389 to the houses that stood on the said lands.

For Petitioners : Mr.T.Sai Krishnan

For Respondents : Mr.K.Suresh
Government Advocate for R1 to R6

Mr.S.Santhosh
Govt. Advocate (Crl.side) for R7



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ORDER

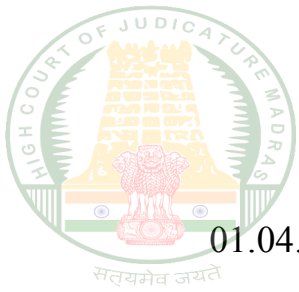
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[Order of the Court was made by **M.SUNDAR, J.,**]

Though a very expansive prayer has been made, Mr.T.Sai Krishnan, learned counsel for writ petitioners very fairly submitted that he would predicate his campaign in the captioned 'Writ Petition' ['WP' for the sake of brevity] on the point that sufficient time has not been given to the writ petitioners to respond to a notice under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (hereinafter 'said 1905 Act' for the sake of brevity) .

2. Elaborating on the above point, learned counsel drew our attention to a notice under Section 7 of said 1905 Act issued by R5. This notice is dated 17.03.2025 but learned counsel submits that it has been served on the first writ petitioner only on 27.03.2025. It was pointed out that the notice calls upon the noticee to respond on or before 31.03.2025 which leaves only three clear days for the first writ petitioner to respond.

3. Mr.K.Suresh, learned Government Advocate for respondents pointed out that the first writ petitioner in any event has responded to Section 7 notice by way of a detailed reply dated 01.04.2025. To be noted,



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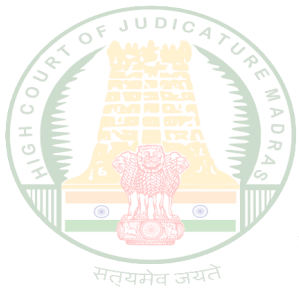
01.04.2025 detailed response of the writ petitioners is before us as part of the case file.

4. It is submitted that in the *interregnum*, the property which is subject matter of Section 7 notice has been partly demolished.

5. We carefully considered the submissions made on both sides.

6. Following ***Girnar*** Principle i.e., ***Girnar Traders (3) Vs. State of Maharashtra*** reported in (2011) 3 SCC 1, this Court has repeatedly held that said 1905 Act is a self contained code. This is vide ***order dated 29.04.2025 in W.P.Nos.8355 and 8357 of 2022*** reported in Neutral Citation [2025:MHC:1162] and relevant paragraph is paragraph No.7 which reads as follows:

'7. In Girnar Traders (3) Vs. State of Maharashtra reported in (2011) 3 SCC 1, a Constitution Bench of Hon'ble Supreme Court declared the law qua self contained Code and held that a statute which is a complete legislation with regard to the purpose for which it is enacted and provides for complete machinery to deal with purposes sought to be achieved by law with dependence on other legislations being absent or at best is minimal is a self contained Code. Applying Girnar principle, this Court has repeatedly held that said 1905 Act is a self-contained Code. The reason inter-alia is that there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act followed by an order (considering the cause shown). The order under Section 6 is appealable



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under Section 10 [District Collector is the appellate authority] and there is a provision for further revision to the Government under Section 10-A of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer vide Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self-contained Code in every sense of the expression.'

7. The scheme of said 1905 Act should specify the lands so occupied and call upon the noticee to show-cause before a certain date as to why he/she should not be proceeded against vide Section 6 of said 1905 Act. This show-cause should be by giving the noticee a reasonable time.

8. Considering the facts and circumstances of the case and the nature of the matter, we find that three days is not reasonable time. In any event, the noticee has responded as alluded to supra. This means that the response of the noticee should be considered and order should be made under Section 6 of said 1905 Act, that not having been done, there cannot be coercive action.

9. Learned State counsel very fairly submits that the response of the writ petitioner dated 01.04.2025 will be considered and orders will be made under Section 6 of said 1905 Act. While passing the Section 6 order, all the points in the response dated 01.04.2025 shall be considered on its own



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merits and in accordance with law. Section 6 order shall be communicated to the writ petitioner under due acknowledgement. Further, coercive action if any and if that be so, shall be subject to and depending on orders under Section 6 of said 1905 Act.

10. In this regard, we make it clear that Section 6 order is an appealable order and a statutory appeal under Section 10 with a provision for a statutory revision under Section 10-A are available under said 1905 Act, which as alluded to supra, has been held to be a self-contained code.

11. Vide Section 11 of said 1905 Act, a person against whom Section 6 order has been made has 30 days time to prefer an appeal. Therefore, if Section 6 order is adverse to the writ petitioners, the same will be kept in abeyance for 30 days so that the writ petitioners can avail statutory appeal remedy. Though obvious, if Section 6 order is in favour of the writ petitioners, that will be curtains on the matter.

12. Learned counsel for writ petitioners submits that besides partial demolition, electricity connection has been disconnected and the superstructure is being used as dwelling house. As the coercive action has been commenced without passing orders under Section 6 of said 1905 Act,



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we direct R6 to restore electricity connection forthwith but that will be subject to further proceedings under said 1905 Act.

Captioned writ petition disposed of in the aforesaid manner.

Consequently, the connected miscellaneous petitions are disposed of as closed.

(M.S.,J.)

(H.C.,J.)

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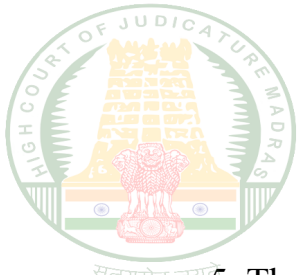
Neutral Citation : Yes / No

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To

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Chengalpet
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